IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 8541 of 2007(P)

PETITIONER:

KAJA HUSSAIN,
PROPRIETOR, K.H.AGENCIES, MUNDA,
EDKKARA, MALAPPURAM DIST., REPRESENTED BY
POWER OF ATTORNEY HOLDER SHRI. P.H.ABDUL RAZAK.

BY ADV. DR.K.B.MUHAMED KUTTY (SR.)
SRI.K.M.FIROZ

RESPONDENT:

THE COMMERCIAL TAX OFFICER,
DEPARTMENT OF COMMERCIAL TAXES,
VAT CIRCLE, NILAMBUR.

BY SR.GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.8541/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE SAMPLE INVOICES DT.9.4.06 AND 1.5.06.

EXT.P2:- COPY OF THE LIST OF INCENTIVE GIVEN BY THE OUT OF STATE SELLER FOR THE MONTH OF APRIL 06 AND MAY 06.

EXT.P3:- COPY OF THE NOTICE FOR APRIL 2006 AND MAY 06 IN FORM NO.10 DT.26.12.06 (ALONG WITH LEGIBLE TYPED COPY).

EXT.P4:- COPY OF THE NOTICE NO.32162281/06-07 DT..23.1.07.

EXT.P5:- COPY OF THE OBJECTION DT.12.1.07.

/TRUE COLPY/

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K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 8541 OF 2007-P

JUDGMENT

The petitioner challenges Ext.P3 notice, as one issued without jurisdiction. He also challenges Ext.P4 demand of tax even before the finalisation of the assessment. The petitioner has already filed Ext.P5 objection to Ext.P3 notice.

2. I heard the learned Government Pleader for the respondent also. Ext.P4 is a notice demanding tax, even before the assessment is over. Therefore, it is clear that the same is unenforcible. The respondent will consider Ext.P5 objection after affording an opportunity of being heard to the petitioner and pass final orders. If the petitioner is aggrieved by the final order, he will be free to work out his remedy.

Subject to the above direction, the Writ Petition is closed.

14th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/